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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,866	01/21/2004	Helmuth Gabl	ANDPAT/180/US	3146
2543 7590 02/22/2007 ALIX YALE & RISTAS LLP 750 MAIN STREET SUITE 1400 HARTFORD, CT 06103			EXAMINER LITHGOW, THOMAS M	
			ART UNIT 1724	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/22/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/761,866

Applicant(s)

GABL, HELMUTH

Examiner

Thomas M. Lithgow

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.  
4a) Of the above claim(s) 1-18, 22, 23, 25-27 and 30 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 19-21, 24 and 28-29 and 31 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

THOMAS M. LITHGOW  
PRIMARY EXAMINER  
GROUP 1724

### **DETAILED ACTION**

1. Applicant's election without traverse of Species A (fig. 2) in the reply filed on 29 December 2006 is acknowledged. Applicant further asserts that the "purified suspension" recitation in apparatus claims 19 and 20 would differentiate the claimed apparatus from one that purifies wastewater. In applicant's claims, as presently recited, the prior art structure applied against the apparatus claims need only to be capable of performing the recited function (discharging the purified suspension) and need not necessarily disclose the exact same function. Applicant may introduce an additional limitation which includes – a source of unpurified suspension— and link this limitation to the remaining structures and functions to give weight to the phrase "discharging the purified suspension". It is further noted that claim 31, although "new", is withdrawn from consideration as drawn to the non-elected method claims.

### ***Drawings***

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in

reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by any one of DE 2610581 or Pfalzer (TAPPI-1980) or GB 2030186 or Matzke (US 5417806) or DE 4238336. DE '581 discloses a flotation stage 10 followed by washing of the partially purified accept fraction at 18 and 20.

The accept suspension in DE '581 must be at least partially "impure" as the inventor saw fit to subject it to a washing step. Pfalzer (1980) discloses in fig. 1, a washing step "W1" which feeds a suspension of fibers and contaminants to a flotation step (flotation). GB '186 discloses a flotation step at 5 with a two-stage washing at 8,9. Matzke '806 discloses washing at 23 with both the accept and reject fractions going to a flotation stage. DE '336 discloses flotation at 1 followed by a washing stage at 10.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20-21, 24, 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '336 in view of Pfalzer (TAPPI- 1982). Claim 20 recites a flotation stage which can represent a single cell flotation or a plurality of flotation cells. DE '336 includes cells 5' and 5" which form a flotation stage together and which include a loop of flow which eventually goes to washer 10 and then a portion is returned back to the flotation


stage. It is clear the suspension is eventually aerated in the flotation cells of DE '336 but the disclose fails to specifically recite that the fluid flow is aerated in a liquid line. However, as disclosed in Pfalzer (1982) the preferred flotation cell arrangement for deinking involves aeration injection into the flotation cell (see fig. 4). To modify DE '336 with a teaching from Pfalzer (1982) would have been obvious in view of Pfalzer's (1982) teaching of benefit of such a design and that Pfalzer is a common inventor in the DE '336 process.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE '336 in view of Pfalzer (1982) as applied to claim 20 above, and further in view of Gartland (US 4215447). The use of a vertically oriented washer in the reclaiming of secondary fibers is well known and taught by Gartland '447. The use of a vertically oriented washer of Gartland's for the functionally equivalent horizontally oriented washer of DE '336 would have been obvious to one of ordinary skill in the art at the time of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "T.M. Lithgow", with a long, sweeping horizontal line extending to the left.

Thomas M. Lithgow  
Primary Examiner  
Art Unit 1724

TML